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September 18, 2019

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VIA ECF

The Honorable Joseph F. Bianco
Visiting Circuit Judge (sitting by designation in below referenced matter)
U.S. Court of Appeals for the Second Circuit
100 Federal Plaza
Central Islip, New York 11722

Re: United States of America v. Kenner, Cr. No. 13-607 (JFB)

Dear Judge Bianco:

We write on behalf of Danske Bank A/S, London Branch (“Danske”) to update the Court on Danske’s efforts to reach an agreement with the government regarding the government’s proposed preliminary orders of forfeiture (the “Proposed Orders”) and to request the Court’s assistance, as suggested by the Court at the September 5, 2019 court conference. During discussions with the government following the conference, Danske made an offer to the government that included the following: (1) a substantial guaranteed cash payment to the government for the benefit of Defendants’ victims; (2) an orderly expedited interlocutory sale process and plan agreed to by Danske; and (3) a commitment to fund the liquidity needs of the Resort Property to continue development and ultimately sales through the interlocutory sale process. The government, however, continues down its four year “wait and see” approach and proposes to address these issues only after its Proposed Orders are issued and refuses to make any changes to its most recent Proposed Orders. The government’s approach places Danske in an impossible position. The Resort Property requires additional liquidity and although Danske is not obligated to provide that liquidity, Danske would consider doing so in order to secure the Resort Property as a going concern. As a public company with duties to shareholders, Danske cannot provide additional liquidity to the Resort without the government recognizing Danske’s claim. The government, however, refuses to do so until potentially some later date. The government’s approach harms innocent third parties without redounding to the benefit of any victim. The time to address these issues is now before the damage cannot be undone.

As a result, Danske is left with no alternative, but to seek the Court’s assistance to avoid the significant issues that will result from entry of the Proposed Orders. We respectfully request that the Court schedule a conference for interested third parties and the government either by phone or in chambers as soon as the Court is available so that we can discuss these issues with the Court and seek the Court’s assistance.



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Respectfully,

A handwritten signature in black ink, appearing to read "George Kostolampros".

George Kostolampros
Doreen S. Martin

cc: All parties of record via ECF
Thomas McC. Souther, Esq. and Kevin P. Mulry, Esq. (by email)
Marc Wolinsky, Esq. (Diamante Doce, LLC) (by email)